

## REMARKS/ARGUMENTS

Claims 1-6, 10-14, 17-21 and 24-32 stand rejected under 35 U.S.C. §102(e) as being anticipated by Augenbraun et al. Claims 7-9, 15, 16, 22 and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Augenbraun et al. Applicants submit herewith their Declaration under 37 C.F.R. §1.131 to remove Augenbraun et al. as a prior art reference. Applicants completed their invention prior to the filing date of Augenbraun et al. In particular, Applicants declare in paragraph 4 that their software was demonstrated prior to December 15, 1999. Documentation of this early conception and reduction to practice is provided in the form of archived software. This project was an active project, thus some of the software might have been checked-out by software developers working on further enhancements. Thus, while the software had been demonstrated prior to December 15, 1999, the company's archival records have been unable to find a copy of every software module as of prior to that date. A few of the modules referenced in the attached declaration were checked-out by a software developer and not checked-in to the archiving system until shortly after December 15, 1999. Nevertheless, such modules were completed and sufficient for use in the demonstration prior to December 15, 1999. While the demonstration prior to December 15, 1999 establishes that Applicants completed their claimed invention prior to Augenbraun et al., some of the documentation is archived as of a couple of weeks after the December 15, 1999 date. Applicants submit that reduction to practice was completed prior to December 15. Should the office disagree with Applicants' assertion of reduction of practice prior to December 15, 1999, the documentary evidence establishes that reduction to practice was completed no later than the end of 1999. A full conception of the invention is disclosed in the Arctos Version 1.0 Functional Specification dated prior to December 15, 1999. Diligence towards reduction to practice is recited in paragraph 14 of the Declaration.

Applicants submit that Augenbraun et al. was filed after Applicants reduced their invention to practice or in any case after an earlier conception of the invention followed by diligence towards a reduction to practice no later than the end of 1999. Therefore, Augenbraun et al. is not prior art and cannot be the basis of a rejection. The rejection has been overcome and the claims should be allowed.

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For the foregoing reasons, Applicants submit that all claims pending in the application are patentable over the art of record and early notice to that effect is respectfully solicited.

Respectfully submitted,

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